

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JORDAN ROY and JUSTIN)
TRUMBULL, on behalf of themselves)
and others similarly situated,)
Plaintiffs,)
v.) Case No. 3:17-cv-30116-KAR
FEDEX GROUND PACKAGE)
SYSTEMS, INC.,)
Defendant.)

DISCOVERY ORDERS

ROBERTSON, U.S.M.J.

After hearing, the court enters the following orders:

A. As to the following opt-in plaintiffs who have failed to respond to questionnaires (Appleton, Arzeno, Bellizi, Jr., Berch, Caban, Cappello, Corcoran, Donahue, Jr., Forcier, Gomez, Harrell, R. Hayes, T. Hayes, Hornedo, Jaro, Louis, Maloney IV, McCormack, McFadries, Miel, Rayneld, Rodrigues, Rose, Schiep, Souza, Stevens, Thorpe, and Valera)¹:

The court hereby orders that you produce completed questionnaires and requested documents that are within your possession, custody, or control on or before June 4, 2021. Failure to comply with this order will result in the dismissal of your claims with prejudice. *See Fed. R. Civ. P. 37(b)(2)(A)(v)* (dismissal is a permissible sanction for a party's failure to comply with a discovery order); *see also Cheng v. Ideassociates, Inc.*, No. 97-1892, 1998 WL 168887, at

¹ The names of these opt-in plaintiffs are based on the information that FedEx Ground provided to the court on March 3, 2021 in Docket No. 177-1. This order does not apply to the additional opt-in plaintiffs who were identified by Plaintiffs and were not the subject of the court's earlier order authorizing FedEx to take discovery from fifty opt-in plaintiffs (Dkt. No. 121).

*1 (1st Cir. Apr. 9, 1998) (per curiam) (unpublished); *Enriquez v. Cherry Hill Mkt. Corp.*, No. CV 2010-5616(FB)(MDG), 2012 WL 6641650, at *1-2 (E.D.N.Y. Oct. 22, 2012), *adopted by* 2012 WL 6626008, at *1 (E.D.N.Y. Dec. 20, 2012); *Davis v. Westgate Planet Hollywood Las Vegas, LLC*, 2:09-cv-00722-RCJ-PAL, 2011 WL 13248030, at *2-3 (D. Nev. Jan. 4, 2011).

B. As to the following opt-in plaintiffs who have responded to questionnaires and have indicated that they have some requested documents that they have not produced (Barros, Bessette, Camargo, Eddington, Ingram, Jones, Jr., Mendonca, Michaud, Niemerck, and Robillard)²:

The court hereby orders that you produce any requested documents that you have indicated are in your possession, custody, or control on or before May 21, 2021.

C. As to additional questionnaires:

Fed Ex may produce and distribute questionnaires to an additional fifteen (15) opt-in plaintiffs within fourteen (14) days of this order. The completed questionnaires and requested documents should be returned to Plaintiffs' counsel within sixty days of the date of their distribution. If an opt-in plaintiff selected by FedEx does not have possession, custody, or control of requested documents, he or she should so indicate on the questionnaire. Failure to produce a completed questionnaire and/or produce available documents may result in dismissal with prejudice of the opt-in plaintiff's case.

D. As to depositions:

FedEx is permitted to depose up to twenty (20) opt-in plaintiffs.

It is so ordered.

Date: April 22, 2021

/s/ Katherine A. Robertson
KATHERINE A. ROBERTSON
U.S. MAGISTRATE JUDGE

² This order does not apply to opt-in Plaintiffs who have indicated that they do not have responsive documents in their possession, custody, or control.